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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **WESTERN DIVISION**

12 **PACIFIC TOMATO GROWERS,**  
13 **LTD., *et al.*,**

14 **Plaintiffs,**

15 **vs.**

16 **KIRBY T. TANIMURA, *et al.***

17 **Defendants.**

**Case No.: CV 08-5100-GW(FFMx)**

**HONORABLE GEORGE H. WU**

**JUDGMENT**

18 **S & H PACKING & SALES CO.,**  
19 **INC., *et al.*,**

20 **Plaintiffs,**

21 **vs.**

22 **KIRBY T. TANIMURA, *et al.***

23 **Defendants.**

**Case Nos. CV 08-5250-GW(FFMx)**

24 **x)**  
25 **NATIONAL COMMERCIAL**  
26 **RECOVERY, INC.**

27 **Plaintiffs,**

28 **vs.**

**KIRBY T. TANIMURA, *et al.***

**Defendants.**

**Case Nos. CV 08-6046-GW(FFMx)**

1        This matter is before this Court upon the Joint Motion for Entry of Consent  
2 Judgment and declaration filed by Plaintiffs' counsel that Defendants, Kirby T.  
3 Tanimura and Yolanda Tanimura, have failed to make payment in compliance with  
4 the Stipulation for Settlement in Consolidated Cases filed in this action [DE 171].  
5 Under the terms of the Stipulation for Settlement in Consolidated Cases previously  
6 filed with the Court, this Court is to enter the Consent Judgment upon the filing of a  
7 declaration by Plaintiffs' counsel, which state that payment has not been made by  
8 Defendants as required by the Order Approving Stipulation for Settlement in  
9 Consolidated Cases [DE 172]. Based upon the filing of the declaration previously  
10 noted, the disclosure of distributions made to the PACA Trust Beneficiaries, and  
11 being otherwise fully advised in the premises, the Court now enters judgment  
12 pursuant to Federal Rule of Civil Procedure 58(a):

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14        **ORDERED, ADJUDGED AND DECREED** that Judgment is hereby  
15 entered in these consolidated actions, in favor of the PACA Trust Creditor Plaintiffs  
16 and against Kirby T. Tanimura and Yolanda Tanimura, jointly and severally, as to  
17 each plaintiff, for liability arising under Section 5(c) of the Perishable Agricultural  
18 Commodities Act, 7 U.S.C. §499(e)(c) ("PACA"), as follows:  
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20        1.        Judgment in favor of Pacific Tomato Growers, Ltd., a Florida limited  
21 partnership with its principal place of business located at 503 10th Street West,  
22 Palmetto, Florida 34221, in the aggregate amount of \$252,124.75, plus interest at  
23 the legal rate in effect on the date of this judgment, all of which qualifies for  
24 protection under PACA, until satisfied, for which let execution issue;  
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1           2.     Judgment in favor of Malena Produce, Inc., an Arizona corporation  
2 with its principal place of business located at 947 E. Frontage Rd., Rio Rico,  
3 Arizona, in the aggregate amount of \$426,614.55, plus interest at the legal rate in  
4 effect on the date of this judgment, all of which qualifies for protection under  
5 PACA, until satisfied, for which let execution issue;  
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7           3.     Judgment in favor of Westlake Distributors, Inc. d/b/a Westlake  
8 Produce Company, a California corporation with its principal place of business  
9 located at 5301 Rivergrade Road, Suite 200, Irwindale, California, in the aggregate  
10 amount of \$80,106.69, plus interest at the legal rate in effect on the date of this  
11 judgment, all of which qualifies for protection under PACA, until satisfied, for  
12 which let execution issue;  
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14           4.     Judgment in favor of Tomato Thyme Corporation, a Florida  
15 corporation with its principal place of business located at 6811 78th Street, Tampa,  
16 Florida, in the aggregate amount of \$76,742.13 , plus interest at the legal rate in  
17 effect on the date of this judgment, all of which qualifies for protection under  
18 PACA, until satisfied, for which let execution issue;  
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20           5.     Judgment in favor of Maui-Fresh International, LLC, a California  
21 limited liability company with its principal place of business located at 333 North  
22 Euclid Way, Anaheim, California, in the aggregate amount of \$77,717.42, plus  
23 interest at the legal rate in effect on the date of this judgment, all of which qualifies  
24 for protection under PACA, until satisfied, for which let execution issue;  
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26           6.     Judgment in favor of MJ International Marketing, LLC d/b/a Fresh  
27 Farms, an Arizona limited liability company with its principal place of business  
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1 located at 15 Avenida Acaponeta, Rio Rico Industrial Park, Rio Rico, Arizona, in  
2 the aggregate amount of \$74,822.65, plus interest at the legal rate in effect on the  
3 date of this judgment, all of which qualifies for protection under PACA, until  
4 satisfied, for which let execution issue;

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6 7. Judgment in favor of Go-Fresh Produce, Inc., a California corporation  
7 with its principal place of business located at 1601 E Olympic Blvd., Ste 204, Los  
8 Angeles, California, in the aggregate amount of \$348.14, plus interest at the legal  
9 rate in effect on the date of this judgment, all of which qualifies for protection under  
10 PACA, until satisfied, for which let execution issue;

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12 8. Judgment in favor of Natural Selection Foods, LLC d/b/a Earthbound  
13 Farms, a California limited liability company with its principal place of business  
14 located at 1721 San Juan Highway, San Juan Bautista, California, in the aggregate  
15 amount of \$10,082.66, plus interest at the legal rate in effect on the date of this  
16 judgment, all of which qualifies for protection under PACA, until satisfied, for  
17 which let execution issue;

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19 9. Judgment in favor of Cris-P Produce Co., Inc., an Arizona corporation  
20 with its principal place of business located at 2811 N Palenque Ave., Ste. 3,  
21 Nogales, Arizona, in the aggregate amount of \$6,534.49, plus interest at the legal  
22 rate in effect on the date of this judgment, all of which qualifies for protection under  
23 PACA, until satisfied, for which let execution issue;

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25 10. Judgment in favor of Giumarra Brothers Fruit Company, LLC, a  
26 California limited liability company with its principal place of business located at  
27 11220 Edison Hwy., Edison, California, in the aggregate amount of \$7,323.49, plus  
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1 interest at the legal rate in effect on the date of this judgment, all of which qualifies  
2 for protection under PACA, until satisfied, for which let execution issue;

3        11. Judgment in favor of Interfresh, Inc., a California corporation with its  
4 principal place of business located at 2019 W. Orangewood Ave., Orange,  
5 California, in the aggregate amount of \$5,218.53, plus interest at the legal rate in  
6 effect on the date of this judgment, all of which qualifies for protection under  
7 PACA, until satisfied, for which let execution issue;

8        12. Judgment in favor of S & H Packing & Sales Co., Inc., a California  
9 corporation d.b.a. Season Produce Co., in the aggregate amount of \$91,371.42, plus  
10 interest at the legal rate in effect on the date of this judgment, all of which qualifies  
11 for protection under PACA, until satisfied, for which let execution issue;

12        13. Judgment in favor of Abbate Family Farms Limited Partnership, a  
13 California Limited Partnership d.b.a. Abbate Farms, in the aggregate amount of  
14 \$176,736.77, plus interest at the legal rate in effect on the date of this judgment, all  
15 of which qualifies for protection under PACA, until satisfied, for which let  
16 execution issue;

17        14. Judgment in favor of Apache Produce Co., Inc., an Arizona corporation  
18 d.b.a. Plain Jane, in the aggregate amount of \$172,528.40, plus interest at the legal  
19 rate in effect on the date of this judgment, all of which qualifies for protection under  
20 PACA, until satisfied, for which let execution issue;

21        15. Judgment in favor of Baloian Packing Co., Inc., a California  
22 corporation d.b.a.. Baloian Farms, in the aggregate amount of \$365,165.56, plus  
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1 interest at the legal rate in effect on the date of this judgment, all of which qualifies  
2 for protection under PACA, until satisfied, for which let execution issue;

3       16. Judgment in favor of Bionova Produce, INC., an Arizona corporation,  
4 in the aggregate amount of \$195,475.77, plus interest at the legal rate in effect on  
5 the date of this judgment, all of which qualifies for protection under PACA, until  
6 satisfied, for which let execution issue;

7       17. Judgment in favor of Central California Tomato Growers Cooperative,  
8 Inc., a California corporation, in the aggregate amount of \$221,173.68, plus interest  
9 at the legal rate in effect on the date of this judgment, all of which qualifies for  
10 protection under PACA, until satisfied, for which let execution issue;

11       18. Judgment in favor of Delta Fresh, LLC, an Arizona limited liability  
12 company, in the aggregate amount of \$319,090.93, plus interest at the legal rate in  
13 effect on the date of this judgment, all of which qualifies for protection under  
14 PACA, until satisfied, for which let execution issue;

15       19. Judgment in favor of Expo Fresh, LLC, a California limited liability  
16 company, in the aggregate amount of \$514,915.42, plus interest at the legal rate in  
17 effect on the date of this judgment, all of which qualifies for protection under  
18 PACA, until satisfied, for which let execution issue;

19       20. Judgment in favor of Yolanda Torre, an individual d.b.a. Far Side  
20 Farms, in the aggregate amount of \$73,155.85, plus interest at the legal rate in effect  
21 on the date of this judgment, all of which qualifies for protection under PACA, until  
22 satisfied, for which let execution issue;

1           21. Judgment in favor of Frank Donio, Inc., a New Jersey corporation, in  
2 the aggregate amount of \$147,124.11, plus interest at the legal rate in effect on the  
3 date of this judgment, all of which qualifies for protection under PACA, until  
4 satisfied, for which let execution issue;

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6           22. Judgment in favor of Guy E. Maggio, Jr., Inc., a California corporation  
7 d.b.a. GM Distributing, in the aggregate amount of \$72,659.73, plus interest at the  
8 legal rate in effect on the date of this judgment, all of which qualifies for protection  
9 under PACA, until satisfied, for which let execution issue;

10           23. Judgment in favor of Horwath & Co., Inc., a California corporation  
11 d.b.a. Gonzales Packing Co., in the aggregate amount of \$32,396.08, plus interest at  
12 the legal rate in effect on the date of this judgment, all of which qualifies for  
13 protection under PACA, until satisfied, for which let execution issue;

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15           24. Judgment in favor of I&T Produce Company, Inc., a California  
16 corporation, in the aggregate amount of \$30,484.96, plus interest at the legal rate in  
17 effect on the date of this judgment, all of which qualifies for protection under  
18 PACA, until satisfied, for which let execution issue;

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20           25. Judgment in favor of Wayne M. Nakaji, an individual d.b.a. J.  
21 Michael & Co., in the aggregate amount of \$28,811.52, plus interest at the legal rate  
22 in effect on the date of this judgment, all of which qualifies for protection under  
23 PACA, until satisfied, for which let execution issue;

24           26. Judgment in favor of J & A International, Inc., a California corporation,  
25 in the aggregate amount of \$92,244.45, plus interest at the legal rate in effect on the  
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1 date of this judgment, all of which qualifies for protection under PACA, until  
2 satisfied, for which let execution issue;

3         27. Judgment in favor of J.P.M. Sales Co., Inc., an Arizona corporation, in  
4 the aggregate amount of \$300,736.89, plus interest at the legal rate in effect on the  
5 date of this judgment, all of which qualifies for protection under PACA, until  
6 satisfied, for which let execution issue;

7         28. Judgment in favor of Keber Distributing, Inc., a California corporation,  
8 in the aggregate amount of \$38,792.78, plus interest at the legal rate in effect on the  
9 date of this judgment, all of which qualifies for protection under PACA, until  
10 satisfied, for which let execution issue;

11         29. Judgment in favor of Kern Ridge Growers, LLC, a California limited  
12 liability company, in the aggregate amount of \$54,735.40, plus interest at the legal  
13 rate in effect on the date of this judgment, all of which qualifies for protection under  
14 PACA, until satisfied, for which let execution issue;

15         30. Judgment in favor of Live Oak Farms, a California limited partnership,  
16 in the aggregate amount of \$395,718.71, plus interest at the legal rate in effect on  
17 the date of this judgment, all of which qualifies for protection under PACA, until  
18 satisfied, for which let execution issue;

19         31. Judgment in favor of M & M Distributors, Inc., a California  
20 corporation, in the aggregate amount of \$92,008.32, plus interest at the legal rate in  
21 effect on the date of this judgment, all of which qualifies for protection under  
22 PACA, until satisfied, for which let execution issue;

1           32. Judgment in favor of O.P. Murphy Produce Co., Inc., a Texas  
2 corporation d.b.a.. O.P. Murphy & Sons, in the aggregate amount of \$95,505.73,  
3 plus interest at the legal rate in effect on the date of this judgment, all of which  
4 qualifies for protection under PACA, until satisfied, for which let execution issue;

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6           33. Judgment in favor of Oceanside Produce, Inc., a California corporation,  
7 in the aggregate amount of \$321,776.98, plus interest at the legal rate in effect on  
8 the date of this judgment, all of which qualifies for protection under PACA, until  
9 satisfied, for which let execution issue;

10           34. Judgment in favor of Orange County Produce, LLC, in the aggregate  
11 amount of \$77,742.91, plus interest at the legal rate in effect on the date of this  
12 judgment, all of which qualifies for protection under PACA, until satisfied, for  
13 which let execution issue;

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15           35. Judgment in favor of Doud And Associates, Inc., a California  
16 corporation d.b.a.. Pacific Coast Produce, in the aggregate amount of \$159,569.57,  
17 plus interest at the legal rate in effect on the date of this judgment, all of which  
18 qualifies for protection under PACA, until satisfied, for which let execution issue;

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20           36. Judgment in favor of Produce Supply, Inc., a California corporation, in  
21 the aggregate amount of \$88,048.12, plus interest at the legal rate in effect on the  
22 date of this judgment, all of which qualifies for protection under PACA, until  
23 satisfied, for which let execution issue;

24           37. Judgment in favor of Riverside Distributing, Inc., a Texas corporation,  
25 in the aggregate amount of \$44,168.57, plus interest at the legal rate in effect on the  
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1 date of this judgment, all of which qualifies for protection under PACA, until  
2 satisfied, for which let execution issue;

3       38. Judgment in favor of Royal Flavor, LLC, a California limited liability  
4 company, in the aggregate amount of \$698,215.48, plus interest at the legal rate in  
5 effect on the date of this judgment, all of which qualifies for protection under  
6 PACA, until satisfied, for which let execution issue;

7       39. Judgment in favor of Seacoast Distributing, Inc., a California  
8 corporation, in the aggregate amount of \$85,339.97, plus interest at the legal rate in  
9 effect on the date of this judgment, all of which qualifies for protection under  
10 PACA, until satisfied, for which let execution issue;

11       40. Judgment in favor of Sunrise Growers, Inc., a California Corporation,  
12 in the aggregate amount of \$253,880.70, plus interest at the legal rate in effect on  
13 the date of this judgment, all of which qualifies for protection under PACA, until  
14 satisfied, for which let execution issue;

15       41. Judgment in favor of Valmar International Produce Growers, Inc., a  
16 California corporation, in the aggregate amount of \$9,041.47, plus interest at the  
17 legal rate in effect on the date of this judgment, all of which qualifies for protection  
18 under PACA, until satisfied, for which let execution issue;

19       42. Judgment in favor of Veggifruit, Inc., a Florida corporation, in the  
20 aggregate amount of \$17,556.48, plus interest at the legal rate in effect on the date  
21 of this judgment, all of which qualifies for protection under PACA, until satisfied,  
22 for which let execution issue;

1           43. Judgment in favor of Wilson Produce, LLC, an Arizona limited liability  
2 company, in the aggregate amount of \$108,006.81, plus interest at the legal rate in  
3 effect on the date of this judgment, all of which qualifies for protection under  
4 PACA, until satisfied, for which let execution issue;

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6           44. Judgment in favor of G.W. Palmer & Co., Inc., a Tennessee  
7 corporation, with its principal place of business located at 1080 W. Rex Road,  
8 Memphis, Tennessee 38119-3820, in the aggregate amount of \$367,698.18, plus  
9 interest at the legal rate in effect on the date of this judgment, all of which qualifies  
10 for protection under PACA, until satisfied, for which let execution issue;

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12           45. Judgment in favor of Andrew & Williamson Sales Co., Inc. d/b/a  
13 Andrew & Williamson Fresh Produce, a California corporation with its principal  
14 place of business located at 9940 Marconi Drive, San Diego, California 92154-7270,  
15 in the aggregate amount of \$104,618.40, plus interest at the legal rate in effect on  
16 the date of this judgment, all of which qualifies for protection under PACA, until  
17 satisfied, for which let execution issue;

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19           46. Judgment in favor of East Coast Brokers & Packers, Inc., a Florida  
20 corporation with its principal place of business located at 5050 Hwy 60 W, Plant  
21 City, Florida 33564-2636, in the aggregate amount of \$642,959.19, plus interest at  
22 the legal rate in effect on the date of this judgment, all of which qualifies for  
23 protection under PACA, until satisfied, for which let execution issue;

24           47. Judgment in favor of Gargiulo, Inc., a Florida corporation with its  
25 principal place of business located at 1500 Old 41 North, Naples, Florida 34110-  
26 8415, in the aggregate amount of \$262,820.92 plus interest at the legal rate in effect  
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1 on the date of this judgment, all of which qualifies for protection under PACA, until  
2 satisfied, for which let execution issue;

3 48. All pending motions are denied as moot and all counterclaims and  
4 cross-claims are dismissed. The Clerk shall enter judgment forthwith.  
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6 DATED: August 15, 2017

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9 GEORGE H. WU, U.S. District Judge  
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